

## Eastern District Bar Advisory Committee Notes

**February 25, 2004**

*In attendance: Jean Rolfs, Karen Waldroff, Linda Green, Charles Tucker, Jo-Ann Goldman, Ralph Waddell, Eddie Schieffler, John Phillips and Joe Kolb. Committee members Warren Dupwe, Charlie Coleman and Rosalind Mouser were unable to attend.*

**Issue:** A petition was filed by an attorney that included a full Social Security Number, and Form 21 was also attached as part of the petition. What does the clerk's office do when this occurs?

**Answer:** The clerk's office case administrator will call the filing attorney and request that the petition be resubmitted without Form 21 attached. When the attorney submits the petition without Form 21 to the dropbox, the case administrator replaces the petition.

**Issue:** If a debtor's attorney later realizes their client has accidentally given a wrong Social Security Number (SSN) for a filing (after the filing has been submitted), how should this be handled?

**Answer:** The attorney should electronically file a Request for SSN Modification after notification to the appropriate parties, and submit Official Form 21 to the dropbox.

**Issue:** Can ECF block or warn a filer they are attempting to file a pleading in a case that has been dismissed?

**Answer:** Yes, the ECF system currently does this. When you bring up a dismissed case, the system will display the date the case was dismissed.

**Issue:** Are attorney signatures required on all agreed orders? Some attorneys handle these promptly, and some attorneys take many days, or multiple phone calls before they sign.

**Discussion:** After a variety of ideas were discussed, the question was asked if Rule 11 of the Federal Rules of Civil Procedure should take care of this issue. Some suggested writing a cover letter explaining attempts to get signatures, and send with unsigned order. The committee asked if the judges would consider accepting agreed orders submitted to them by a Creditor's attorney without the Debtor's

attorney's signature, as long as the agreed order showed the debtor's attorney is copied.

This request will be passed on to the judges for their review/decision.

Discussion followed that agreed orders rarely have problems or controversy. It was also brought up that if the debtor's attorney did have a problem, there is proper legal recourse, by filing an Order to Set Aside the Agreed Order.

**Issue:** Are cc's still required on orders?

**Answer:** Yes. These are necessary for the case administrator to know who to notice through BNC.

**Issue:** On Notices of Hearing scheduled for Motions for Relief from Stay, the standard language is slightly different between LR and FA. In LR, the notices say either "For compelling reasons, the Court hereby orders that the automatic stay shall remain in effect pending the outcome of the above scheduled hearing, in accordance with 11 U.S.C. 362(e)," or "For compelling reasons, the court orders that the automatic stays shall remain in effect pending the outcome of the above scheduled hearing." In FA the notice says "Counsel for movant waives 30 day period pursuant to 11 U.S.C. s. 362 (e)."

It was asked if the FA notice could use one of the "compelling reason" versions. The current language appears that the creditor's attorney has specifically waived rights without the prior proper authority from their client.

**Answer:** This request will be passed on to the judges for their review and decision.

**Issue:** Recently an attorney submitted a Secured Claim and attached in .pdf form the Proof of Security as an exhibit. The Chapter 13 Trustee objected to the claim for failure to file security documents.

**Answer:** Jo-Ann Goldman reported that when the security documents are filed as attachments they are not downloaded with the proof of claim and the trustee's personnel must go into Pacer and download the documents. The problem reported above was on a Jonesboro case. Jo-Ann recommended that it would substantially eliminate the problem if the creditor could file the Proof of Claim form and security document as one PDF so the claim pdf image would contain the security attachments. Jo-Ann will remind all trustees to remind personnel to check Pacer prior to filing objections.

After the meeting, Karen Waldroff met with the Clerk's office programmer of the Proofs of Claim extractor, Vernon Dainwood. The program has since been modified to include the attachments to proofs to resolve this issue.

**Issue:** Recently there have been bogus e-mails with virus attachments which appear to be sent from court personnel.

**Answer:** The judiciary has had a problem with court personnel e-mails being "spoofed." Virus e-mails are then sent that appear to be from court e-mail addresses. We were all reminded that the court never sends e-mails containing attachments. In addition, e-mail attachments with the extension of .zip or .exe should never be opened unless you are sure you know the sender and content.

**Issue:** Chuck Tucker notified the committee that the U.S. Trustee's office would be moving from their current location in the Superior Federal building by the end of April. Their new location is not yet finalized, but Chuck is hopeful it will be closer to the bankruptcy courthouse, and that the first meeting rooms will be more accessible to debtors. The new offices will definitely be in downtown Little Rock.

**Next Meeting:** September 22, 2004, 1:30 pm (following Debtor Creditor Bar Meeting)  
U.S. Bankruptcy Courthouse, Little Rock, 2<sup>nd</sup> Floor Conference Room  
(John Phillips' birthday)